

Freedom of the Press

Although the press freedom environment improved slightly due to fewer instances of physical attacks and harassment of journalists, the constitutional crisis in Fiji continued in 2013. In January, the military-backed interim government of Prime Minister Josaia Voreqe Bainimarama scrapped a draft constitution presented by Kenyan lawyer Yash Ghai, head of an independent commission charged with writing the new document, and abandoned plans to establish a constituent assembly to debate the legislation, claiming that the draft entrenched racial divisions within the country. A new constitution was adopted on September 6, 2013, in preparation for the first free and fair elections in Fiji since the December 2006 coup. However, the process was seriously flawed and the final document was controversial, as the version signed into law by presidential decree appeared to have differed from the “final” one presented to citizens of Fiji by Bainimarama barely a fortnight earlier.

Nominally, at least, the 2013 constitution provides some safeguards for a free press and freedom of information in Fiji while simultaneously allowing for the curtailment of such rights at the government’s discretion. Section 17 provides for the “right to freedom of speech, expression, thought, opinion and publication,” including “freedom of imagination and creativity.” However, Section 17(3) says the law “may limit, or authorize the limitation of” these freedoms in the interests of national security, public safety, public order, public morality, public health and other circumstances, including to mitigate the “ill will between ethnic or religious groups” and defend “the right [of citizens] to be free from hate speech, whether directed against individuals or groups.” Rights groups have criticized the document for its undermining of free expression rights with such overly broad restrictions.

Defamation is a civil offense in Fiji, as outlined in Chapter 34 of the country’s legal code, and fines may not exceed the cost of damage caused to the plaintiff. Media outlets and journalists faced instances of legal and official harassment in 2013. In February 2013, a High Court judge fined the leading daily newspaper, the *Fiji Times*, FJ\$300,000 (US\$158,000) and ordered the paper to publish an apology within 28 days for an article it had republished from a New Zealand newspaper in November 2011 that questioned judicial independence in Fiji. The High Court had found the *Fiji Times* in contempt of court in October 2012, but did not hand down sentences until several months later. Chief editor Fred Wesley was sentenced to six months’ imprisonment, suspended for two years, while former publisher Brian O’Flaherty was fined FJ\$10,000 (US\$5,300). The penalties were widely criticized as unreasonably harsh.

Fiji does not have a freedom of information law, and access to government information can be difficult. In January 2012, the government ended official censorship and opened wider public debate by lifting the 2009 Public Emergency Regulations (PER), which had allowed authorities to directly censor news content. Nevertheless, an entrenched pattern of self-censorship prevails due to the chilling effect of the 2010 Media Industry Development Decree (MIDD). Tough penalties under the decree have deterred most media outlets from criticizing the regime. The decree established the Media Industry Development Authority, which has the power to enforce the MIDD and investigate possible violations, sidelining the self-regulatory Fiji Media Council. The MIDD also established a separate media tribunal to hear cases referred by the authority, and to impose penalties on journalists whose work is deemed to be against the “public interest or public order.” Violations of these vaguely worded provisions are punishable by a fine of up to FJ\$1,000 (US\$530) or imprisonment of up to two years for journalists; the penalty for any media company that breaches the decree may be as high as FJ\$100,000 (US\$53,000). In addition, the MIDD overrides

traditional checks and balances by forbidding the judiciary from challenging the decree itself or the institutions it established. In October 2013, in a ruling that drew widespread criticism, MIDA chairman Ashwin Raj announced that foreign media trainers would no longer be able to conduct workshops in Fiji without first registering with MIDA.

Coinciding with the adoption of the new constitution, there was a marked freeing up of political discussion in the newspapers in late 2013, accompanied by more robust correspondence in letters to the editor columns. Nevertheless, media critics have rebuked the media for continued self-censorship. In a worrying instance of political pressure, in June 2013, a prominent Fiji Television sports editor, Satish Narayan, was forced to resign after he complained on camera that the music at a local sports event was too loud. The event was organized by the Fiji Sports Council, whose chief executive is Bainimarama's eldest daughter, Litiana Loabuka. The broadcaster was threatened with losing its license if the editor did not leave.

Despite the end of official media censorship that accompanied the lifting of the PER, the government continued to monitor internet traffic, especially to control criticism on antiregime blogs such as *Coupfourpointfive*, *Fijileaks*, and *Fiji Today*. There was also evidence that the government monitored private e-mail. Cases of physical attacks or harassment aimed at journalists or media outlets have become rarer, in part because of the substantial roles already played by legal restrictions and self-censorship in limiting controversial coverage.

Fiji's media landscape contains both public and private outlets. The country's print media landscape consists of two privately owned English-language dailies, the *Fiji Times* and the *Fiji Sun*, and a small number of weekly and monthly publications that are either private or community-owned. Two major media companies, the Motibhai Group and CJ Patel Ltd, control the majority of commercial print outlets. The private radio network Communications Fiji Limited operates several multilingual stations and competes with the public broadcaster, Fiji Broadcasting Corporation, which launched a television channel in 2012. An independent station, Mai Television, also competes with the long-established private outlet Fiji TV. The internet was accessed by about 37 percent of the population in 2013. Social media and underground blogs continued to provide important platforms for dissenting voices during the year, particularly the *Fijileaks* blog, published by a prominent local journalist.

Under the MIDD, foreign owners can hold no more than a 10 percent stake in media outlets. This clause was reportedly designed to make critical sections of the news media more pliant. It led to the sale of the *Fiji Times*, the country's oldest and most influential newspaper, founded in 1869 and previously wholly owned by the Australian branch of Rupert Murdoch's U.S.-based News Corporation. Since the 2006 coup, the newspaper had been the most critical media opponent of the regime and the strongest voice for a return to democracy. In 2010, Murdoch was forced to sell the *Fiji Times* to a local trading company, the Motibhai Group, and the daily has since shown signs of self-censorship in the face of economic and legal pressure from the government. Meanwhile, the rival daily *Fiji Sun*, which supports the regime, has benefitted from a virtual monopoly on state advertising. Despite overall economic improvement, media outlets continue to rely in large part on government advertising revenue.

2014 Scores

Press Status

Partly Free

Press Freedom Score

(0 = best, 100 = worst)

54

Legal Environment

(0 = best, 30 = worst)

18

Political Environment

(0 = best, 40 = worst)

24

Economic Environment

(0 = best, 30 = worst)

12